

1 YI (EVA) YANG (BAR NO. 306215)  
2 **NORTON ROSE FULBRIGHT US LLP**  
3 555 South Flower Street  
4 Forty-First Floor  
5 Los Angeles, California 90071  
6 Telephone: (213) 892-9200  
7 Facsimile: (213) 892-9494  
8 eva.yang@nortonrosefulbright.com

9 Attorney For Non-Party  
10 PAYPAL, INC.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

12 EPIC GAMES, INC.,  
13  
14 Plaintiff, Counter-defendant,  
15 v.  
16 APPLE INC.,  
17  
18 Defendant, Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF BRIAN SIMS IN  
SUPPORT OF APPLE INC.'S  
ADMINISTRATIVE MOTION TO  
SEAL**

**DECLARATION OF BRIAN SIMS**

I, Brian Sims, declare as follows:

1. I am the Senior Director and Associate General Counsel of PayPal, Inc. I am over 18 years of age and am competent to testify to the matters set forth herein. I am familiar with PayPal's policies and procedures regarding its protection and treatment of highly sensitive, confidential, and proprietary business information and contracts. As such, I have personal knowledge of the matters set forth herein, and, if called upon, would testify competently and truthfully to the matters set forth herein.

2. I make this declaration in partial support of Apple Inc.'s Administrative Motion to Seal DX-3891. As stated below and identified in the accompanying Proposed Order, PayPal only seeks to seal and redact limited portions ("Redacted Information") of Exhibit DX-3891 ("Merchant Agreement") to protect PayPal's confidential and competitively sensitive and/or proprietary information.

3. The Merchant Agreement is an agreement between Apple and PayPal regarding PayPal's facilitation of payments by Apple customers in the Apple iTunes Store. The Redacted Information consists of (1) specific contractual terms, (2) pricing information, and (3) confidential identifying information of PayPal employees.

4. The specific contractual terms and pricing information were carefully negotiated between PayPal and Apple. Such terms and pricing information were specifically tailored for that particular agreement under the circumstances as a result of confidential negotiations. These terms and pricing information directly reflect PayPal's confidential business decisions and strategy. The confidential identifying information of PayPal employees contain their phone numbers and e-mail addresses, which are not publicly available to protect their privacy. PayPal is not seeking to seal the names of these employees.

5. PayPal expends significant efforts to keep the Redacted Information confidential. The Redacted Information is not available to the public, and the Merchant Agreement requires both PayPal and Apple to keep such information confidential.

6. If the Redacted Information were to be made public, PayPal's competitors and/or

1 other parties would gain first-hand knowledge to confidential strategic business decisions and  
2 negotiations that would cause PayPal competitive harm. Competitors can use this information to  
3 calibrate their pricing and/or contract terms to gain an unfair competitive advantage, or otherwise  
4 try to undercut PayPal to put themselves in an advantageous position. Furthermore, certain PayPal  
5 employees would be harmed by exposing their personal identifying information to the public.

6 I declare under penalty of perjury under the laws of the United States of America that the  
7 foregoing is true and correct.

8 Executed this 30<sup>th</sup> day of April, 2021, at Baltimore County, Maryland.

DocuSigned by:

Brian Sims

BEC1E2295126436...

Brian Sims